Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Cable Television Consumer Protection and Competition Act of 1992	)	MM Docket No. 92-259
	)	
	)	
	)	
Broadcast Signal Carriage Issues	)	

To: The Commission

RESPONSE TO PETITION FOR RECONSIDERATION AND/OR CLARIFICATION

Chris-Craft Industries, Inc. ("Chris-Craft") responds herewith to the "Petition for Reconsideration And/Or Clarification of Tribune Broadcasting Company" (the "Tribune Petition") filed May 3, 1993, in the above-entitled proceeding.

1. Chris-Craft indirectly owns or controls the licensees of eight television stations, including WWOR-TV, Secaucus, New Jersey. WWOR-TV qualifies as a "superstation," within the meaning of Section 325(b)(2)(D) of the Cable Television Consumer Protection and Competition Act of 1992 (the "Act") and new Section 76.64(b)(2) of the Commission's Rules, as adopted by the Commission's Report and Order in this proceeding, FCC 93-144, released March 29, 1993 (the "Order").

2. While the Order and the new rules do not so state explicitly, they may be read as granting superstations the right to control retransmission of their signals by means other than satellites but denying them the right to control retransmission

by satellite, even within their own markets. As the Tribune Petition points out (at 2-3), such an approach would effectively nullify the exercise of any retransmission consent rights by superstations in their own markets. Tribune accordingly requests the Commission to clarify that the "superstation" exception of the new rule applies only to "out-of-market retransmissions of superstations' signals via satellite" (Tribune Petition at 1).

3. The Commission can and should grant that request. Section 325(b)(2)(D) of the Act provides for an exception from the retransmission consent requirement where, among other things, the signal of a superstation "was obtained from a satellite carrier and the originating station was a superstation on May 1, 1991." That language cannot be regarded as plain and unambiguous. Indeed, recognizing its ambiguity, the Commission has sensibly read subsection (b)(2)(D) to avoid any consent requirement where a particular superstation's signal is obtained via satellite by a multichannel video program distributor, now or in the future.[1/]

4. In light of the ambiguity of the statutory language, the Commission should construe the statute to effectuate its purpose. The directly applicable legislative history clearly supports the Tribune position. The section originated in

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1/ See Order at ¶ 142. Pursuant to this reading, Section 76.64(b)(2) of the Rules interprets the statutory "was" as an "is," and applies the exception if "[t]he multichannel video programming distributor obtains the signal from a satellite carrier" (emphasis supplied). Id.

the bill reported by the Senate Committee, which provided that "[u]ntil December 31, 1994," the retransmission consent requirement would not apply to "retransmission of a signal of a broadcasting station retransmitted by a satellite carrier or common carrier which carried that signal on May 1, 1991."[2/] As the Senate Committee Report reflects, this provision attempted to deal simultaneously with satellite carriers retransmitting superstations to home satellite dishes under the Satellite Home Viewer Act and with all other multichannel video program distributors of superstations.[3/] Its basic objective, as the Tribune Petition points out (at 6), was to "avoid any disruption of the settled arrangements for carriage of distant signals."[4/] There was no intent to deprive superstations of retransmission consent rights in their own markets, where their signals are not "distant," simply because those signals are transmitted by satellite into other markets.

5. The provision took its enacted form as the result of "an amendment to make perfecting amendments" offered by Senator Inouye.[5/] Subsections (b)(2)(B) and (C) were introduced to deal with direct retransmissions to home satellite dishes,

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2/ 138 Cong. Rec. S405, Jan. 27, 1992.

3/ See S. Rep. No. 92, 102d Cong., 1st Sess. 37 & 83 (1991). The exception was in this form drafted to expire on January 1, 1995, "when the compulsory [copyright] license for home dish viewing expires." Id. at 37.

4/ Id. at 37, emphasis supplied.

5/ See 138 Cong. Rec. S564-5, January 29, 1992.

leaving subsection (D) to deal with all other multichannel video program distributors. There is no indication of any intent to allow unauthorized retransmission of superstations in their own markets other than direct retransmissions to home satellite dishes.

6. As Tribune persuasively argues, moreover, the Act is designed to give all television stations the right to elect between retransmission consent rights and must-carry status within their local markets.[6] The Commission should make clear that superstations have the right to make that election on a par with other stations.

Respectfully submitted

CHRIS-CRAFT INDUSTRIES, INC.

By: [signature]

CERTFIFICATE OF SERVICE

I, Joel Rosenbloom, hereby certify that on this 4th day of June, 1993, I caused copies of the foregoing "Response to Petition for Reconsideration And/Or Clarification" to be mailed, United States first class postage prepaid, to the following:

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